



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/343,517	06/30/1999	ROBERT BURNETT	A7489	8018

7590 07/09/2003
SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 200373213

EXAMINER

FERRIS, DERRICK W

ART UNIT	PAPER NUMBER
----------	--------------

2663

DATE MAILED: 07/09/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/343,517

Applicant(s)

BURNETT, ROBERT

Examiner 

Derrick W. Ferris

Art Unit

2663

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

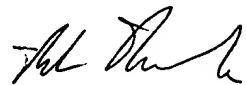
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


MELVIN MARCELO
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Examiner has construed the claims based on what is known in the art and in particular the teachings of Katz with respect to figure 10 on page 45. Specifically that both IP and CLNP are at a network layer or layer 3 of the OSI model. Examiner notes that applicant also agrees that CLNP is at a network layer (see applicant's specification on page 5, line 3). Thus at issue is what is meant by applicant's definition of overlaying both protocols since both protocols are at a network layer (i.e., how this appears to differ from the "co-existence" of protocols versus the "selective overlay"). Specifically with respect to applicant's figure 5, examiner notes that IP/CLNP exist at the gateways and that CLNP only exists at intermediate network elements (i.e., examiner emphasizes that IP is not shown for non-gateway intermediate devices thus examiner notes no "selective overlay"). Applicant argues that IP is overlaid on top of CLNP. As both of these protocols are at layer 3, examiner notes that a skilled artisan would recognize that not all attributes of IP are overlaid on top of CLNP (since they are both at a network layer as shown in figure 10 of Katz which examiner notes is what appears to be at issue with respect to a "single communications protocol"). Thus only certain properties of IP (i.e., the "IP information" as described by applicant on page 4, line 19) are overlaid which appears to be at issue and which examiner notes is not clearly recited in the claims (i.e., applicant has not claimed how IP is overlaid on top of a second communications protocol). As examiner is allowed a reasonable but broad interpretation of the claims, examiner notes that in general certain "IP information" is used between IP and CLNP to allow the two protocols to communicate such that by applicant's definition the protocols are "overlaid" and form a "tunnel". In other words, using applicant's figure 2 in applicant's response filed 6/20/03, examiner notes that since routers 1 and 2 "speak" both IP and CLNP (which is not correctly characterized by applicant in the figure), both routers contain a "selective overlay". Hence with respect to the rejection, Katz teaches that TUBA-capable hosts (i.e., gateways as defined by applicant) use IP to talk to IP-only hosts and CLNP when talking to other CLNP hosts (page 45 right-hand column). Since the two protocols are bridged by TCP/UDP, examiner notes that certain "IP information" is used between the two protocols (i.e., CLNP and IP). Examiner furthermore notes that for some of the claims a network media such as Ethernet can also be construed as a second communications protocol. Examiner also notes with respect to the teachings of Katz that the "selectivity" is based on whether the router is connected to an IP-only host or a non-IP-only host (i.e., if the router is connected to another protocol such as CLNP then CLNP is used thus making the router selective)..